

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 15,004

)

Appeal of )

)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying her and her husband's application for benefits under VHAP (Vermont Health Access Plan). The issue is whether the petitioner's household income is in excess of the program maximum.

The petitioner filed her appeal on May 9, 1997. She failed to appear at her hearing scheduled for June 11, 1997, and didn't respond to a follow up letter from the Board. At its meeting on July 23, 1997, the board dismissed the petitioner's appeal for her failure to appear at her hearing. After she received the Order of Dismissal, the petitioner asked the Board to reopen her case, saying she had been confused by the Commissioner's review letter she had received prior to the scheduled hearing. At a hearing on the petitioner's request to reopen the matter, held on October 3, 1997, the Department indicated that it did not oppose reopening the case rather than having the petitioner reapply for benefits and having her appeal (based on the same facts) heard at a later time.

FINDINGS OF FACT

The facts are not in dispute. The petitioner, who lives with her husband, receives Social Security disability benefits of \$740 a month. Her husband receives Social Security of \$629.80 a month.<sup>(1)</sup> The petitioner and her husband have resources that make them ineligible for Medicaid.

The petitioner applied for VHAP, a program of more limited coverage with less stringent resource provisions than regular Medicaid. The Department denied her application because the petitioner's and her husband's household income of \$1,369.80 a month is in excess of the gross income standards for that program.

ORDER

The Department's decision is affirmed.

### REASONS

Medicaid Manual (MM) § 4001.8 provides that a VHAP group must include the applicant and his or her spouse. Section 4001.83 provides that the combined income of all group members must be included in determining eligibility.

Under MM § 4001.84 and Procedures Manual § P-2420, the maximum monthly income under VHAP for a household of two persons is \$1,327. Inasmuch as the Department's decision in this matter is in accord with the regulations the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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1. The petitioner's husband is eligible for Medicare. The petitioner indicated that she will become eligible for Medicare as of sometime next year.